



WYOMING LEGISLATIVE SERVICE OFFICE

Research Memorandum

MIAMI-DADE COUNTY'S JAIL DIVERSION PROGRAM

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by

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QUESTION: Provide an overview of Miami-Dade County's Criminal Mental Health Project.

BACKGROUND¹

The impetus behind the creation of Miami-Dade County's Jail Diversion Program was keenly described in a 2019 law review article by C. Joseph Boatwright II as follows:

It does not seem plausible that a Harvard-educated psychiatrist and the former head of psychiatry at Jackson Memorial hospital in Miami-Dade County would be homeless and continually cycling through the criminal justice system. However, this was exactly the situation that faced Judge Steven Leifman, a county court judge in Miami-Dade County, Florida in 2000. Early in his career, Judge Leifman met with parents who asked if he could help their son who was scheduled to appear before Judge Leifman in court that day. They explained that their son was a Harvard-educated psychiatrist and the former head of psychiatry at Jackson Memorial hospital in Miami-Dade County. Further, they explained that he was suffering from late-onset schizophrenia, was homeless, and had been arrested numerous times on minor offenses. As a result, he had been in and out of the county jail system for years. Although Judge Leifman had not previously dealt with a similar situation, he assured the parents that he would help their son.

The accused man had been arrested on a second-degree misdemeanor for stealing a shopping cart. As Judge Leifman began to speak to him, the accused man had a psychotic episode in the courtroom. This caused Judge Leifman to order a mental competency examination for him. After the examination, it was determined that he was "incompetent to proceed" in court due to his mental illness and should be involuntarily committed to a facility where he could receive mental health treatment

¹C. Joseph Boatwright II, *Solving the Problem of Criminalizing the Mental Ill: The Miami-Dade Model*, 56 Am. Crim. L. Rev. 135, 135-137 (2019) (citations omitted).

and be restored to competency. However, Florida law, like the laws of many other states and jurisdictions, did not allow for the involuntary commitment of defendants in misdemeanor cases. As a result, he was released from jail without receiving mental health treatment, only to repeat the cycle of being arrested again and going through the same process without any treatment.

Judge Leifman's experience is not uncommon for those in the criminal justice system. It is generally and most commonly described as the "criminalization of mental illness." The criminalization of mental illness is the process of directing those with mental illnesses, who usually commit minor offenses, through the criminal justice system and then treating their mental illnesses in our jails and prisons. The criminalization of mental illness has become a significant problem in the United States. According to statistics from the National Sheriff's Association, Treatment Advocacy Center, and the Department of Justice, in 2012 there were over ten times as many people with severe mental illnesses in jails and prisons in the United States as there were in all state psychiatric hospitals combined. Twenty percent of all jail detainees experience a severe mental illness. There are nearly 1.5 million individuals with severe mental illnesses who are arrested annually. On any given day there are 360,000 people with severe mental illnesses in jails and prisons throughout the country and over 760,000 people with severe mental illnesses are on community control or probation. People with mental illnesses are on probation or parole two to four times longer than that of the general population on community control or probation. In South Florida, people with mental illnesses remain incarcerated eight times longer than people without mental illnesses for the exact same charge and at seven times the cost.

When Judge Leifman initially confronted this problem, South Florida had the highest percentage of individuals suffering from mental illnesses in the nation in its population. In Miami-Dade County, nine percent of the total population suffered from severe mental illness, which is two to three times the national average. At this same time, in the Dade County Jail there were up to 1,200 inmates suffering from mental illnesses that occupied three floors of the jail. In contrast, in 1985 there were only 80 inmates suffering from mental illnesses in the county jail. Of the 114,000 bookings in the county jail, 20,000 were for individuals suffering from mental illnesses. Therefore, the Dade County jail served as the largest psychiatric institution in Florida.

Facing the problem of the criminalization of mental illness firsthand led Judge Leifman to help develop the Eleventh Judicial Circuit Criminal Mental Health Project.

MIAMI-DADE COUNTY CRIMINAL MENTAL HEALTH PROJECT²

The Florida court system is comprised of the Supreme Court, six district courts of appeal, 20 circuit courts and 67 county courts.³ In 2000, the Eleventh Judicial Circuit Court, which has jurisdiction solely over Miami-Dade County, established the Criminal Mental Health Project to divert individuals with serious mental illnesses or co-occurring substance abuse disorders from the criminal justice system into community-based treatment and support services.⁴ Diversion may occur upon initial contact with an individual, arrest, jail booking, or an initial court appearance. The Criminal Mental Health Project originated following a summit of Miami-Dade County stakeholders (including judges, court staff, law enforcement agencies, first responders, and mental health professionals) to study countywide responses to people with mental illnesses involved in the judicial system. The summit revealed a “dysfunctional and fragmented” system that perpetuated the cycles of crises, homelessness, and recidivism and prevented the mental health and criminal justice systems from responding more effectively to people with mental illnesses.⁵

According to the program, the Criminal Mental Health Project has sought to address the system's "dysfunctions and fragmentation" by reversing the criminalization of people with mental illnesses and creating more linkages between the criminal justice system and mental health services.⁶ The project operates two primary components to achieve these objectives. The first component is the pre-booking jail diversion program, which provides law enforcement officers with training to appropriately respond to calls from individuals in mental health crises and connect or transport them to adequate community-based treatment resources and services. The second component is the post-booking diversion program, which seeks to identify individuals booked into jail who have mental illnesses through screenings conducted by corrections and in-jail mental health staff and determine an individualized transition plan for re-entry and an appropriate level of treatment, support services, and supervision. Within the post-booking diversion program exist two subprograms: the misdemeanor and the felony jail diversion subprograms.

² Unless otherwise indicated by footnote, the information throughout this memorandum is derived from Steve Leifman, Tim Coffey, *Jail Diversion: the Miami Model* CNS Spectrums (2020). p. 659-666, accessed on the Eleventh Judicial Circuit of Florida's website https://www.jud11.flcourts.org/docs/Jail_diversion_the_Miami_model%20CNS%202020.pdf (last visited on Apr. 4, 2023).

³ Court System Organization & Structure. Florida Office of the Court Administrator. <https://www.flcourts.gov/Florida-Courts#:~:text=The%20Florida%20court%20system%20is,providing%20justice%20across%20the%20state>

⁴ Criminal Mental Health Project. Eleventh Judicial Circuit of Florida. <https://www.jud11.flcourts.org/Criminal-Mental-Health-Project>

⁵ *Id.*

⁶ *Id.*

Eligibility for either of these subprograms is contingent upon meeting legal and clinical criteria. All individuals entering either program must have been diagnosed with a serious mental illness or psychiatric disorder and must voluntarily accept treatment.

The felony jail diversion subprogram imposes stricter eligibility conditions, as it is available to individuals charged with certain second or third-degree felonies (e.g., possession of controlled substances, burglary, or resisting arrest). However, individuals charged with child abuse, aggravated assault with a firearm or carrying a concealed weapon are not eligible for the program. The misdemeanor diversion program subprogram, however, is open to individuals who have committed any misdemeanor, except for traffic offenses. Core components of the post-booking jail diversion program include dismissal or modification of criminal charges and participant connection by Criminal Mental Health Project staff to a comprehensive array of community-based treatment and support services, including assistance in applying for state and federal benefit programs.

According to the Eleventh Judicial Circuit Court, outcomes of the pre-booking and post-booking jail diversion programs include increased access to treatment, fewer jail bookings, reduced recidivism rates, and a drop in the jail population. The drop in jail population led Miami-Dade County to close a jail facility at an annual cost-saving to taxpayers of \$12 million.

In 2009, the Criminal Mental Health Project established the Miami-Dade Forensic Alternative Center (MD-FAC) to divert individuals with mental illnesses from state forensic hospitals to community-based treatment services. Florida's forensic hospitals in Florida provide treatment to individuals who have a mental illness and are involved with the criminal justice system.⁷ Individuals served by MD-FAC are generally those who have been charged with second and third degree felonies, do not have significant histories of violent felony offenses, and are incompetent to stand trial or adjudicated not guilty by reason of insanity. The community-based treatment services focus on monitoring treatment and restoring competency to facilitate community re-entry. According to the program, outcomes of diverting from state forensic hospitals to community-based services include more cost-effective delivery of mental health services, more effective community re-entry, reduced pressure on jails, and quicker competency restoration than that in state forensic facilities.

⁷ Office of Program Policy Analysis and Government Accountability, Department of Children and Families, Mental Health Hospitals, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5045> (last visited Mar. 23, 2023).

MIAMI-DADE COUNTY CRIMINAL MENTAL HEALTH PROJECT COMPONENTS

A. *Pre-booking Diversion Program*

The pre-booking diversion program focuses on training law enforcement personnel to respond to crisis calls involving people with mental illness and substance abuse disorders. The training, referred to as Crisis Intervention Team (CIT) training, includes a 40-hour program on psychiatric diagnosis, suicide intervention, substance abuse issues, behavioral de-escalation techniques, and local crisis-response resources. Instead of booking individuals in jail, CIT-trained personnel may assist individuals in accessing treatment by providing transport to hospital and crisis stabilization units. In addition to responding to calls involving mental health crises, CIT-trained police officers still conduct routine policing duties. As of 2021, more than 7,600 law enforcement personnel in Miami-Dade County had received CIT training.⁸

Since 2010, CIT-trained officers have responded to 105,268 mental health crisis calls resulting in 66,556 individuals assisted in accessing treatment, 18,608 pre-booking diversions from jail to treatment, and 198 arrests.⁹ The Eleventh Judicial Court reported a decrease in annual jail bookings from 118,000 in Fiscal Year 2007-2008 to about 53,000 in Fiscal Year 2018-2019.¹⁰ The average daily population in the county jail system also decreased from around 7,000 in 2008 to 4,200 inmates in 2019, leading the county to close one jail facility at an annual cost-saving to taxpayers of \$12 million.¹¹

B. *Post-booking Diversion Program*

The post-booking diversion program seeks to identify individuals booked into jail who have mental illnesses and determine an appropriate level of treatment, support services, and community supervision. Although the Criminal Mental Health Project initially sought to divert defendants with non-violent misdemeanors, the scope expanded in 2008 to include defendants with third or some second-degree felonies.

⁸ Eleventh Judicial Circuit – Miami-Dade County, Florida. December 2021.

https://www.jud11.flcourts.org/docs/Jail_diversion_the_Miami_model%20CNS%202020.pdf

⁹ *Id.*

¹⁰ Steve Leifman, Tim Coffey, *Jail Diversion: the Miami Model* CNS Spectrums (2020). p. 659-666, accessed on the Eleventh Judicial Circuit of Florida's website

https://www.jud11.flcourts.org/docs/Jail_diversion_the_Miami_model%20CNS%202020.pdf (last visited on Apr. 4, 2023).

¹¹ *Id.*

In Miami-Dade County jails, correctional officers screen all incoming defendants to detect signs and symptoms of mental illnesses. Defendants also receive medical screening from the jails' health care staff, including further assessment of psychiatric functioning. Should screenings identify defendants with possible psychiatric distress, psychiatric staff conduct more thorough evaluations. Further evaluation specifically focuses on health and substance use treatment needs and criminogenic factors, which help determine an appropriate level of treatment, support services, and community supervision for each defendant. Following the screenings, staff prepare an individualized transition plan to reduce recidivism and improve psychiatric outcomes, recovery, and community integration.

The post-booking diversion program consists of two subprograms: one for misdemeanor offenders, and the other for felony offenders. Eligibility for the subprograms is contingent upon meeting clinical and legal criteria. To meet clinical criteria, individuals entering either program must have been diagnosed with a serious mental illness or psychiatric disorder (e.g., PTSD, bipolarity, or major depression) and voluntarily agree to mental health or co-occurring treatment and services. While the misdemeanor jail diversion subprogram is open to individuals who have been charged only with misdemeanors, except for traffic offenses, the felony jail diversion subprogram is more restrictive. Only individuals with third or certain second-degree felonies and who have no more than three prior non-violent felony convictions are eligible for the program. The State Attorney's Office may consider individuals with more past or present legal involvement on a case-by-case basis.

1. Misdemeanor Jail Diversion Subprogram

Individuals entering the misdemeanor subprogram are eligible for transfer from jail to a stabilization unit. Upon stabilization, the Criminal Mental Health Project staff connect program participants to a comprehensive array of community-based treatment, support, and housing services to facilitate the participants' re-entry and recovery outcomes. Participating in the program and following treatment may lead to dismissal or modification of the participants' legal charges. In addition, staff monitor program participants for one year upon community re-entry to ensure continuing necessary supports and services. Every year, 300 individuals enter the misdemeanor diversion program with the program reporting recidivism rates for those program participants as dropping from 75 to 20 percent.¹²

¹² Eleventh Judicial Circuit – Miami-Dade County, Florida. December 2021.
<https://www.jud11.flcourts.org/docs/CMHP%20Program.pdf>

2. *Felony Jail Diversion Program*

In addition to meeting the clinical and legal criteria described above, individuals willing to participate in the felony jail diversion program must receive a referral to the Criminal Mental Health Project from one of several sources, including the Public Defender's Office, the State Attorney's Office, private attorneys, judges, and corrections health services. When an individual enters the program, the State Attorney's Office informs the court adjudicating the participant's case of the plea the participant will be offered after completing the program. Identical to the misdemeanor subprogram, staff assist participants in accessing support services, and participants may also have their legal charges dropped or modified. As reported by the program, individuals participating in the felony subprogram appear to have a recidivism rate of just 6 percent and reductions in jail bookings and jail days of more than 75 percent, saving the county over 31,000 jail days.¹³

3. *Recovery Peer Specialists*

Individuals diagnosed with mental illnesses work as recovery peer specialists within the Criminal Mental Health Project to support the misdemeanor and felony jail diversion subprograms. Individuals serving as peer specialists are not incarcerated. Recovery peer specialists' primary tasks are to assist program participants with community re-entry and engagement in continuing treatment services and facilitate the participants' development of adaptive coping skills and behaviors.

C. Assistance with Entitlement Benefit Applications

The Criminal Mental Health Project facilitates access for program participants to attempt to access benefit programs by, among other actions, fostering a close partnership with the Social Security Administration and by helping all eligible program participants apply for Social Security benefits using the SSI/SSDI, Outreach, Access, and Recovery (SOAR) model, originally a federal program within the Substance Abuse and Mental Health Services Administration.

D. Forensic Hospital Diversion Program

In August 2009, the Criminal Mental Health Project established the Miami-Dade Forensic Alternative Center (MD-FAC) to divert individuals with mental illnesses committed to state forensic hospitals to community-based treatment and forensic services. Individuals served by the

¹³ Steve Leifman, Tim Coffey, *Jail Diversion: the Miami Model* CNS Spectrums (2020). p. 659-666, accessed on the Eleventh Judicial Circuit of Florida's website https://www.jud11.flcourts.org/docs/Jail_diversion_the_Miami_model%20CNS%202020.pdf (last visited on Mar. 24, 2023).

MD-FAC are those who are adjudicated incompetent to stand trial or not guilty because of insanity. The program also includes individuals charged with second or third-degree felonies and who have no significant histories of violent felony offenses. The community-based treatment services help in competency restoration, community re-entry, development of community living skills, monitoring to ensure ongoing treatment, and support participants in accessing entitlement benefits and other means of economic self-sufficiency.

In contrast to individuals sent to state forensic hospitals, those served by the MD-FAC do not return to jail upon restoration of competency. According to the program, the diversion results in a decreased burden on correctional facilities, more cost-effective provision of mental-health services, and the reduced likelihood of individuals decompensating while incarcerated, which would force readmission to a state hospital.

E. Miami Center for Mental Health and Recovery

Since 2006, the Criminal Mental Health Project and other stakeholders have sought to develop the Miami Center for Mental Health and Recovery, a 181,000 square foot mental health and treatment facility. The facility, which is slated to commence operations in 2023, is intended by the program to create a comprehensive and coordinated care system for individuals with serious mental illnesses who are frequent and costly recidivists in the criminal justice system. The facility will house an integrated crisis stabilization unit, outpatient behavioral and primary care treatment services, educational spaces, a courtroom, and spaces for social services agencies.

Please note that LSO takes no position on the efficacy of or the need for a similar program in Wyoming and the contours of any program for Wyoming should the Committee further consider this topic.

If you have any further questions, please do not hesitate to contact LSO Research and Evaluation at 777-7881.